



## Landing on the Wrong Note: The Price We Paid for *Brown*

by Gloria Ladson-Billings

The first part of the title of this talk<sup>1</sup> is taken from Ajay Heble’s (2000) book *Landing on the Wrong Note: Jazz, Dissonance, and Critical Practice*. I have chosen this musical image to convey the problem of good intentions gone awry. No musician plans to play the wrong note. The plaintiffs, litigators, Supreme Court Justices, and civil rights advocates all expressed good intentions regarding *Brown*, and although playing one wrong note does not destroy or invalidate an entire performance, it does create a kind of dissonance that is more or less evident depending on one’s vantage point. I am suggesting that the results of the *Brown v. Board of Education* decision of 1954 represent a kind of landing on the wrong note. *Brown*’s intentions were good and honorable. Its fight was just, but from a 2004 perspective, one might argue that we have landed on a wrong note. I am also using this jazz metaphor as a way to conceive a new vision of America that is more complex and multifaceted than the prevailing cultural narrative.

This article addresses what I have identified as the price we paid for *Brown*. I want to deal with my concerns by providing a justification for discussing *Brown*, exploring the historical context in which *Brown* was conceived, detailing what I see as the specific limitations of the ruling, and considering where we might go from here.

### Why *Brown*? Why Now?

The obvious reason for this particular discussion is to fulfill the specifics of the DeWitt-Wallace–Reader’s Digest Lecture to address issues of concern for education. A more relevant reason is that this year marks the 50th anniversary of the decision, and half a century gives us ample time to look back on it soberly and critically. Another reason for considering *Brown* is the degree to which school desegregation has become an international issue. Schools in South Africa, Eastern Europe, the Middle East, Russia, and China are dealing with the dismantling of separate and unequal school systems to better integrate subordinate populations into the mainstream (Greenburg, 2003). I have also chosen *Brown* as a topic for discussion because of its central role in the U.S. school curriculum. Diana Hess (2003) refers to the “classroom iconization of *Brown*,” pointing out that this one Supreme Court case is listed in more state curriculum standards documents than any other. She also points out that when queried, law professors, high school teachers, judges, and two Supreme Court Justices (Ginsburg and O’Connor) all include *Brown* in the list of cases that students should learn in school.

Finally, I have settled on *Brown* because this past fall I was called upon to be an expert witness in a school funding adequacy case in South Carolina (*Abbeville et al. v. the State of South Carolina, et al.*). The case involves eight rural school districts that assert that their property values cannot generate enough tax money for their children to have “an opportunity . . . to acquire . . . a minimally adequate education” (*Abbeville et al. v. South Carolina*, 24939, April 1999). The amazing irony of this case is that it is being heard in the very same Manning, SC, Clarendon County courthouse as *Briggs v. Elliott*, a case that began in South Carolina on May 17, 1950, and was later folded into *Brown* along with three other cases.

### Historical Context of *Brown*

Hess (2003) has argued the *Brown* decision is reified in the classroom. I contend that it also is reified in U.S. legal, political, and popular culture. On October 26, 1992, the U.S. Congress passed Public Law 102-525, establishing the Monroe Elementary School and its adjacent grounds in Topeka, KS, as a National Historic Site (the school was one of the segregated schools to which African American students were assigned). The National Archives and Records Administration (NARA) includes documents related to the case in its digital classroom, and the decision is a linchpin of much civil rights argumentation.

*Brown* has taken on a mythic quality that actually distorts the way many Americans have come to understand its genesis and function in the society. Our tendency is to view *Brown* as a “natural” occurrence in the nation’s steady march toward race relations progress (Crenshaw, 1988). This notion of progress is coupled with a view of America as a nation endowed with inherent “goodness” and exceptionality. Historians like Joyce Appleby challenge our view of this exceptionalism:

Exceptionalism . . . is America’s peculiar form of Eurocentrism. In the nation’s critical first decades, it provided a way to explain the connection of the United States to Europe within a story about its geographic and political disconnection. But today, exceptionalism raises formidable obstacles to appreciating America’s original and authentic diversity. . . . [O]ur peculiar form of Eurocentrism . . . created a national identity for the revolutionary generation . . . [and] foreclosed other ways of interpreting the meaning of the United States. It is to that foreclosure two centuries ago that we should now look to diagnose our present discomfort with calls for a multicultural understanding of the United States. (Appleby, 1992, p. 420)

I want to suggest that the *Brown* decision is not the result of America as a good and altruistic nation but rather the result of the decision’s particular historical and political context. This argument

is not new, particularly to legal scholars, political scientists, and historians. Nevertheless, it has gained little or no currency in the education community, as evidenced by the way *Brown* is taught in the nation's schools.

Again, I refer to Hess who states, "an object of uncritical devotion, *Brown* is most likely to be taught not simply as a correctly decided court case, but as an important symbol that continues to shape contemporary ideas about justice, equality, and the power of the Supreme Court" (Hess, 2003, p. 6). In an earlier article (Tate, Ladson-Billings, & Grant, 1993) colleagues and I raised questions about the Supreme Court's attempt to propose a mathematical solution (i.e. determine what constitutes segregation and desegregation by strict numbers) to complex social problems.

My argument here is that the case came at a time when the Court had almost no other choice but to rule in favor of the plaintiffs. *Brown* is not just one case, but rather the accumulation of a series of cases over a more than 100-year period.<sup>2</sup> In 1849, Benjamin F. Roberts sued the city of Boston on behalf of his five-year-old daughter, Sarah (Cushing, 1883). Sarah Roberts walked past five White elementary schools to a dilapidated elementary school for Black children. Initially Benjamin Roberts attempted to enroll his daughter in one of the White schools. Failing this, he enlisted the legal support of Robert Morris, an African American attorney who recruited well-known White abolitionist Charles Sumner to join him on the case. Despite Sumner's attempt to leverage the Massachusetts Constitution by arguing that school segregation was discriminatory and harmful to *all* children, the court ruled in favor of the school committee.

Of course, the primary legal referent for *Brown* is the 1896 *Plessy v. Ferguson* case that *Brown* reversed. Homer Plessy was an African American who tested the Louisiana segregation law by riding in a train car reserved for Whites. The law stated that segregation was legal as long as the facilities maintained for Blacks were equal to those established for Whites. Plessy argued his case on the basis of the 14th Amendment and its guarantee of equal protection. But, the U.S. Supreme Court upheld Judge Ferguson's ruling and in so doing, validated segregation throughout the nation. A number of subsequent challenges to the ruling failed to sway the court.

Although *Plessy* was concerned with a public accommodation, specifically transportation, later the NAACP would see equal education as the bigger, more significant prize. Two cases in Delaware, *Belton v. Gebhart* and *Bulah v. Gebhart* (1952) started out as school transportation cases that the NAACP encouraged the plaintiffs to turn into school integration cases. The plaintiffs won limited local victories that did not have national impact. But, their cases would become a part of the larger *Brown* plea along with *Briggs v. Elliott*,<sup>3</sup> *Bolling v. Sharpe*,<sup>4</sup> and *Davis v. County School Board of Prince Edward County*.<sup>5</sup>

At the same time that parents were fighting for desegregated K-12 schools, activity at the college and professional school level was also heating up. In *McLaurin v. Oklahoma State Regents* (1950) the Supreme Court struck down University of Oklahoma rules that allowed a Black man to attend classes but fenced him off from the other students. On that same day, the Court ruled in *Sweatt v. Painter* (1950) that a makeshift law school that the state of Texas had created to avoid admitting Black students to the

University of Texas Law School did not represent an equal facility as called for in *Plessy*.

One might think that the sheer volume of cases that the Court was hearing during this time made the reversal of *Plessy* seem inevitable. Instead, I want to suggest that the real catalyst for *Brown* is the larger socio-political context of the post-war era. There is no indication that the Eisenhower Administration was enthusiastic about the ruling; the President wrote in a letter to his friend, retired Navy Captain Swede Hazlett (October, 1954), "The segregation issue will, I think, become acute or tend to die out according to the character of the procedure orders that the Court will probably issue this winter. My own guess is that they will be very moderate and accord a maximum of initiative to the local courts."<sup>6</sup> Eisenhower was counting on the power of states' rights to hold school segregation in check while the federal government could point to the ruling as an example of its commitment to equality.

Bell (1980) points out that with the Cold War struggle to prevent the Soviets from spreading communism among emerging Third-World peoples, the United States was compelled to confront its own credibility issue concerning Black people and their civil liberties. The amicus brief filed in *Brown* by the U.S. Justice Department argued that desegregation was in the national interest in part because of foreign policy issues (Dudziak, 1995). The Justice Department said (1954), "The United States is trying to prove to the people of the world, of every nationality, race and color, that a free democracy is the most civilized and secure form of government yet devised by man." The brief also quoted Secretary of State Dean Acheson's letter to the attorney general, in which Acheson wrote:

During the past six years, the damage to our foreign relations attributable to [race discrimination] has become progressively greater. The United States is under constant attack in the foreign press, over foreign radio, and in such international bodies as the United Nations because of various practices of discrimination against minority groups in this country. . . . Soviet spokesmen regularly exploit this situation in propaganda against the United States. . . . Some of these attacks against us are based on falsehoods or distortion; but the undeniable existence of racial discrimination gives unfriendly governments the most effective kind of ammunition for their propaganda warfare. (cited by Layton, 2000, p.116)

Dudziak points out that the continued legal segregation and racism that pervaded U.S. society created an embarrassing reality for U.S. foreign policy. "Newspapers throughout the world carried stories about discrimination against non-white visiting foreign dignitaries, as well as against American Blacks. At a time when the U.S. hoped to reshape the postwar world in its own image, the international attention given to racial segregation was troublesome and embarrassing" (Dudziak, 1995, p. 110). After all, Adolf Hitler had used the racial superiority argument to spread his Nazi ideology and the United States through both Jesse Owens's brilliant athletic demonstration in the 1938 Olympics and its triumph in World War II, resolutely repudiated such thinking.

What we have in the *Brown* decision is a prime example of what Derrick Bell calls "interest convergence." In addition to the international embarrassment, Bell suggests that *Brown* provided "much needed assurance to American Blacks that the precepts of equality and freedom so heralded during World War II might yet

be given meaning at home” (Bell, 1980, p. 96). Nevertheless, dissident voices such as Paul Robeson’s asserted, “It is unthinkable . . . that American Negroes would go to war on behalf of those who have oppressed us for generations . . . against a country [the Soviet Union] which in one generation has raised our people to the full human dignity of mankind” (Bell, 1980, p. 96).

Bell also suggests that *Brown* was championed by Whites who understood that the South could never make the economic transition from a “rural, plantation society to the sunbelt with all its potential and profit” (Bell, 1980, p. 96) unless it eradicated state-sponsored segregation. Thus the *Brown* case could be positioned as serving White interests—improving the national image, quelling racial unrest, and stimulating the economy—as well as Black interests—improving the educational condition of Black children and promoting social mobility. It is this convergence of interests that made *Brown* feasible. Now the focus of the discussion is to begin to understand the social and cultural costs that were incurred as a result of *Brown*.

### Understanding the Limitations of *Brown*

First, it is important to acknowledge that the attorneys, scholars, educators, and community members who worked tirelessly on behalf of school desegregation were working for the right cause. And I affirm the principle that separate is inherently unequal. My issue is with *Brown* as the remedy, or more specifically, with the *implementation* of *Brown* as endorsed by the Court.

Despite making the right decision, the justices and the plaintiffs and other champions of social justice and equality did not (and indeed, could not) anticipate the depth of White fear and resentment toward the decision and the limitations such a decision would have in a racist context. In a recent lecture, Jack Greenburg (2003), one of the NAACP Legal Defense Fund lawyers who argued the *Brown* case, said, “We knew there would be resistance, but we were unprepared for the depth of the hatred and violence aimed at Black people in the South.” Tate, Grant, and Ladson-Billings (1993) argued that the Court allowed for a “mathematical” solution to a social problem, particularly in the *Brown II* decision, where the local school districts were left with the responsibility to desegregate “with all deliberate speed.” What the decision and its supporters could not account for was the degree to which White supremacy and racism were instantiated in the U.S. cultural model.

Issues of race and racism permeate U.S. culture—through law, language, politics, economics, symbols, art, public policy—and the prevalence of race is not merely in those spaces seen as racially defined spaces. For example, in the case of law, “race suffuses all bodies of law, not only obvious one like civil rights, immigration law, and federal Indian law, but also property law, contracts law, criminal law, federal courts, family law and even . . . corporate law” (Haney-Lopez, 1995, p. 192). The Warren court was making a decision about race *in* the context of racism. According to Mark Tushnet, former law clerk for Justice Thurgood Marshall, civil rights litigants attempted to “work within a racist system to combat racism” (Tushnet, 1944, p. 3).

One example of that context is the way the plaintiff attorneys used a discourse of Black inferiority to bolster their case. Prendergast states, “the arguments of psychological harm, as construed in *Brown I*, provided the grounds for overturning separate

but equal without challenging White supremacy” (Prendergast, 2003, p. 24). Thus the experts for the plaintiffs argued that Black inferiority that was exacerbated by segregation was the reason to overturn the separate but equal principle. Citing Whitman, Prendergast shares a portion of the expert testimony of David Krech, professor of psychology from the University of California:

I would say that most white people have cause to be prejudiced against the Negro, because the Negro in most cases is indeed inferior to the white man, because the white man has made him [that] through the practice of legal segregation. . . . [A]s a consequence of inadequate education we build into the Negro the very characteristic, not only intellectual, but also personality characteristics, which we then use to justify prejudice. (Prendergast, 2003, p. 25)

The ability to pathologize the plaintiff instead of addressing the underlying pathology—White supremacy—of the defendant severely limited the ruling and its implementation throughout the land.

In a different, but strangely related case, Latino families in the Lemon Grove School District experienced White supremacist attitudes firsthand more than two decades before *Brown* (Espinosa & Christopher, 1985; Alvarez, 1986). In 1930, the Lemon Grove, CA, school board attempted to create a segregated school for Mexican American children of the district. This small district, comprising 95 Anglos and 75 Latinos, was persuaded by the PTA and local Chamber of Commerce to send its Mexican American children to another school, without prior notice to the Latino families, because it claimed that the children did not speak English and were unsanitary. The Latino families went to court and the judge ruled against the school district, but the basis of his ruling was that the Mexican Americans were “officially” White and not Black, Asian, or Indian—groups that the law permitted districts to place in segregated schools. Thus again the ability to leverage non-White inferiority became a way to access social, economic, and political privileges.

Legal scholar Charles Lawrence asserts that the flaw in *Brown* comes as a result of the Court’s fostering of “a way of thinking about segregation that has allowed both the judiciary and society at large to deny the reality of race in America” (Lawrence, 1980, p. 50). More important, Lawrence points out that if we are to have a real and meaningful remedy we have to recognize that racial reality in order to reframe *Brown* and “make it stand for what it should have stood for in 1954.” Lawrence offers three underlying characteristics of segregation:

1. Its only purpose is to “label or define Blacks as inferior and thus exclude them from full and equal participation in the society.”
2. The injury of segregation comes from its “system” or “institution” rather than from “particular segregating acts.”
3. This institution of segregation is “organic” and “self-perpetuating” and cannot be dismantled via public sanction. It “must be affirmatively destroyed.” (Lawrence, 1980, p. 50)

Lawrence points out that Black children suffered injury not because they were sitting in classrooms with other Black children, but rather because they were in those classrooms within a larger system that defined them and their schools as inferior. Indeed, as Siddle-Walker (1996) documents, some of the all-Black schools



were superior to their White counterparts. But in a segregated system it is difficult to make their excellence evident.

The system of segregation was so comprehensive that African American teachers regardless of their qualifications were relegated to all Black schools. Their professional development options in the South were limited because of segregation, and the paradox was that many southern Black teachers received advanced training in some of the best northern institutions, including Teachers College, University of Wisconsin-Madison, and University of Chicago making them better qualified than White southern teachers, but still legally prohibited from teaching White children. Further, Lawrence argues, it will never be enough to try to punish segregationist behavior; rather it is necessary to work toward deliberate dismantling of segregation as an institution. Desegregating schools is a limited way of dealing with segregation as an institution. We need to think about ways to desegregate the society.

If we consider *Brown* as a ruling designed to eliminate school segregation, we know that, for the most part, it has been a failure. Orfield and Eaton (1996) show that after the ruling Southern school segregation continued almost undisturbed well into the 1960s. Northern schools remained segregated until the mid-1970s. Segregation actually grew in the 1990s. Of course one of the major problems that we have in understanding *Brown* is that we conflate two incompatible decisions—*Brown I* and *Brown II*. *Brown I*, the May 1954 decision is the right decision, the one that pronounces the principle of separate as inherently unequal. *Brown I* is totally congruent with the principles of democracy and what the nation claims to stand for. *Brown II*, on the other hand, is the implementation phase of the decision. It effectively serves to undo any of the promise of the original decision. According to Orfield and Eaton, “the statement of principle was separated from the commitment to implementation, and the implementation procedures turned out not to work. For this reason, *Brown* and its implementation decision, *Brown II*, might most accurately be viewed as flawed compromises that combined a soaring repudiation of segregation with an unworkable remedy” (1996, p. 7).

It would be wrong to suggest that desegregation was never implemented. By the mid-1960s when the Civil Rights Movement was exploding across the nation and Congress passed the 1964 Civil Rights Act, southern schools felt the full enforcement of the law at the behest of a more aggressive Johnson Administration. But shortly after Richard Nixon’s election, the Republican Party’s Southern strategy emerged and enforcement of school desegregation waned. In his memoir, Nixon chief of staff H.R. Haldeman wrote in 1970:

Feb. 4 . . . he plans to take on the integration problem directly. Is really concerned about situation in Southern schools and feels we have to take some leadership to try to reverse Court decisions that have forced integration too far, too fast. Has told Mitchell [Attorney General] to file another case, and keep filing until we get a reversal. (Haldeman, 1994, p. 126/ Orfield & Eaton, 1996, p. 9)

Over the next 20 years, several legal cases functioned effectively to roll back the principle of *Brown*. Among the cases were *Milliken v. Bradley* (1974), *San Antonio School District v. Rodriguez* (1973), *Board of Education of Oklahoma v. Dowell* (1991), and

*Freeman v. Pitts* (1992). Briefly, *Milliken* closed off the opportunity for racially isolated communities of color to draw from White suburbs in order to desegregate; in *Rodriguez* the Court ruled that children had no constitutional right to equal school expenditures; *Dowell* and *Pitts* allowed formerly desegregated school districts to return to neighborhood schools because they were determined to be “unitary,” there was no separate school district for children of color. The power and impact of *Brown* on school desegregation had become substantially diluted. But even when *Brown* represented a hope for change in the nation’s schools, that hope came at a cost.

One of the costs of *Brown* was the job loss and demotions for Black teachers and administrators. Epps (2003) puts the number of jobs lost at about 38,000 in 17 states in the South between 1954 and 1965. Hudson and Holmes (1994) concur with Epps and go on to document the steady decline of African Americans in the teaching profession. They assert that before 1954, “approximately 82,000 African American teachers were responsible for educating the nation’s two million African American public school students” (Hudson & Holmes, 1994, p. 388). Fultz (in press) refers to the “displacement of Black educators” that includes both job loss and demotions. Haney (1978) states that as desegregation began to be implemented some state legislatures and school boards throughout the South began a campaign of “economic reprisal and intimidation against Black educators” (Haney, 1978, p. 90). The Alabama legislature introduced a bill in 1956 that would have given school boards the right to dismiss Black educators “with or without cause, and with or without a hearing and right to appeal.” Haney further states that in North Carolina, “128 out of 131 white superintendents believed that it would be ‘impracticable to use Negro teachers’ in schools under their jurisdiction” (Haney, 1978, p. 90). Despite job losses and demotions, Black teachers and administrators generally supported school desegregation even though it meant likely displacement for them.

Detweiler (1967) has suggested that Black teachers in the South shouldered a special burden during school desegregation. While the *Brown* ruling defined the rights of Black students the Black teacher’s position became much less secure. In the 1965–66 school year the U.S. Department of Health, Education, and Welfare reported that only 1.8% of the Black teachers in the eleven states of the former Confederacy taught on a desegregated faculty. Not a single Black teacher in Alabama, Louisiana, or Mississippi had been assigned to a school where there were White teachers. The paradox of this failure to hire Black teachers is that approximately 85 percent of the Black teachers in the nation were located in the South. If the school districts were going to pair school desegregation with the reduction of the number of Black teachers they would actually be accelerating school desegregation and increasing the teaching load of White teachers.

If we consider the big picture we might argue that the loss of jobs was relatively insignificant and served the greater good. But like general unemployment figures, these numbers are not insignificant if you, or a member of your family, are among the unemployed. Some scholars (e.g., Orfield & Eaton, 1996) argue that the continued problem of recruiting Black teachers and other teachers of color is a result of the increased opportunities in other fields such as medicine, law, and business. I do not dispute this

shift in the job market and career aspirations of young people, but I cannot help wondering why, if the emerging middle class in the Black community chose other job opportunities, working class Blacks weren't recruited to fill the void in the teaching ranks. Could it be that the loss of Black teachers in the early post-*Brown* years created what Randall Robinson (2000) identifies as the ongoing cumulative effects of discrimination? Since African American students saw fewer African American teachers, might they have surmised that the profession was not fully available to them?

Another consequence of the *Brown* decision was the emergence of "segregation academies" as a form of White resistance to desegregation. In 1971 about a half million White children attended segregated private schools in the South. Despite the threat these schools posed to the court decision, only a limited number of legal challenges were mounted to combat them, because they did not receive direct public support in the form of tuition grants. In the case of Smallville, Louisiana, when White parents failed to comply with court-ordered school desegregation their private academy was supplemented by a "donation" of all the school's desks and a library from the public school board. The state of Louisiana provided the textbooks. The local sheriff's department provided security for the academy because of White fears that some Blacks would violently oppose the school. In addition, the academy's costs were lessened with a supplementary payment by the state of Louisiana to private school teachers. When the State Supreme Court found such payments to be unconstitutional the teachers who had formerly been public school teachers were determined to be old enough to retire from the school system and received a pension that acted as a salary supplement (Champagne, 1973).

The long-term legacy of the academy as resistance strategy is another interesting phenomenon. For instance, in South Carolina White citizens developed academies as a way to avoid school desegregation. South Carolina delayed desegregation until 1963, when Clemson University was the first school in the state to desegregate. Some two years later on August 10, 1965, the South Carolina Independent School Association (SCIA) was founded with 7 schools. Today, SCIA comprises 90 schools with 28,000 students. South Carolina is also home to a private Christian school association that includes more than 100 schools.

Just a cursory look at some of the current Web sites of private academies in South Carolina is revealing.<sup>7</sup> Andrew Jackson Academy, "Home of the Confederates," was established in 1971; Jefferson Davis Academy, "Home of the Raiders," was established in 1965 along with Robert E. Lee Academy, "Home of the Cavaliers." Although most of the Web sites include the federal non-discrimination language, the student photographs generally show all White student bodies in a state with an almost 30% Black population. Tuition at the schools I looked at ranges from \$277.50 per month at Patrick Henry Academy (est. 1965) to \$7,400 per year for the high school program at Beaufort Academy (est. 1965). This wide disparity in costs suggests that the ability to opt out of the public schools was one of the prime considerations for the establishment of such schools, not merely creating elite, college preparatory environments.

Another of the costs of *Brown*, to which I alluded earlier, is the way the legal strategy exploited notions of Black inferiority to ask for benevolence on the part of Whites. I would argue that a sig-

nificant (and overlooked) issue is what school segregation does to White students. What if *Brown* had asked what disadvantage do Whites experience as a result of attending racially isolated, White monocultural schools? This might be the question posed by a critical race theorist searching for the possible interest-convergence that the decision could promote. I ask this question after examining Klarman's backlash thesis which argues that *Brown's* direct impact on school desegregation was limited and its indirect contribution to racial change is "more generally assumed than demonstrated" (Klarman, 1994, p.81). For example, Klarman refers to opinion surveys that suggest that in 1955 few Northern Whites discussed the Supreme Court decision and print media coverage of civil rights events did not pay significant attention to the court decisions, including *Brown* as compared to events involving confrontation and violence, such as the 1955-1956 Montgomery Bus Boycott. Indeed "the percentage of respondents identifying civil rights as the nation's most urgent problem surged after the Montgomery bus boycott, not after *Brown*, and even that increase was dwarfed by the explosion in public attention to civil rights after the Birmingham demonstrations in the spring of 1963."

More dramatic than its indirect impact on civil rights, says Klarman was the catalytic effect that *Brown* had on Southern Whites. He suggests that "*Brown* crystallized southern resistance to racial change, which . . . had been scattered and episodic. . . . *Brown* temporarily destroyed racial moderation" (Klarman, p. 81). Klarman's argument is that the civil rights movement did not need *Brown* as a catalyst, but the massive White resistance movement did. Although any number of civil rights activists pointed to *Brown* in hindsight as inspiration for the struggle, the record suggests that in the case of the Montgomery Bus Boycott the leaders had been challenging seating practices on city buses well before *Brown*, and the boycott itself was patterned on a similar boycott in Baton Rouge, Louisiana. In addition, the Montgomery Bus Boycott was not specifically to end segregation but rather for a less degrading form of segregation (Klarman, 1994).

Although it is clear that antagonism toward Blacks was already present in the South and throughout the nation, Klarman's backlash thesis argues that "southern resistance to racial change was of different orders of magnitude before and after *Brown*" (Klarman, 1994, p. 92). Before *Brown* there were of course some hard-line southern Whites who reacted violently to changes such as the returning Black World War II veterans' claims on equal citizenship and President Truman's 1948 civil rights proposals. But the scope of that resistance was limited. *Brown* elevated race over class for the working-class and poor Whites who were the main constituency of the rising populist coalitions in the southern states during this period. *Brown* incited rural Whites to "exert their disproportionate power in state politics to exact racial conformity from Whites less preoccupied with race" (Klarman, 1994, p. 98) and Whites who were less compelled by race were forced to coalesce with White supremacists in an effort to assert states' rights over federal intervention. Essentially, Klarman's argument is that *Brown* forced a polarization of White politics and moderation became untenable.

Although I do not dispute Klarman's assertions that *Brown* was limited in both its direct impact on school desegregation and its indirect impact on the overall civil rights movement, I think

in terms of cost to African Americans, the backlash thesis is not particularly significant. True, there was the increased threat posed by a mobilized White resistance, but the African American community had lived with virulent White anger and violence for centuries. By allowing race to trump class, the real cost, as I see it, is the missed opportunity to build a coalition between African Americans and poor Whites, both of whom were receiving an inferior education.

By framing the debate as solely racial, the remedy offered relief in the form of balancing racial numbers with no regard to educational quality. In a case like the Boston, MA, school desegregation plan, poor African American students from Roxbury were sent to desegregate White working class schools in South Boston (Hochschild, 1984). Articulated by Roediger (1991), and previously by W. E. B. DuBois (1935/1995), we see in its reaction to *Brown* a White working class that again trades a class identity to maintain solidarity with whiteness. DuBois asserted:

The South, after the [Civil] war presented the greatest opportunity for a real national labor movement which the nation ever saw or is likely to see for many decades. Yet the [white] labor movement, with but few exceptions, never realized the situation. It never had the intelligence or knowledge, as a whole, to see in black slavery and Reconstruction, the kernel and the meaning of the labor movement in the United States. (DuBois, 1935/1995, p. 353)

Had the Supreme Court's remedy focused on the quality of education students received, White working class and poor students could have been folded into the decision in a way that might benefit them rather than underscore the adversarial relationship between Blacks and Whites. Instead, the focus on school desegregation obscured the more pressing need for quality education. Actually, the focus on school desegregation obscured the need for school *integration* and the myriad ways that local K–12 schools would thwart the full inclusion of Black children into the school community. Unlike college and university education, where the possibility to create separate and distinct learning tracks does not exist, pre-collegiate education has devised many ways to re-segregate students by race.

One of the popular desegregation solutions that emerged in the North was the magnet school (Winston, 1996). School districts can designate certain schools (particularly those located in Black communities) as specialty schools (e.g., math and technology, fine arts, science) to attract White students from other neighborhoods to them. On paper this seems like a reasonable desegregation solution. But, in many cases the magnet programs became two schools or a school within a school with White students attending the magnet program and Black and/or Latino students attending the “regular” school. In one school in San Jose, CA, located in a Latino community there was a fine arts magnet. White students did come from throughout the city to attend the magnet program. Inside the school, however, the top two floors that housed the fine arts magnet were almost exclusively White while the lower two floors were filled with Latino neighborhood students. In another California example students were enticed to attend high school in a predominantly Black community with offers of free camping trips and ski trips. Although the school offered the trips to all students, both the nature and the equipment needs of the activities limited the participation

of the Black students. Ultimately, the incentives were not enough to convince White families to send their children to the school, and the high school eventually closed.<sup>8</sup> With no high school available in their community, the Black and (later Latino) students were dispersed across the four White schools where they began dropping out at a rate of 65%–70%.

The re-segregation of students is prevalent in our current post-*Brown* era. Of course, schools alone cannot take responsibility for the increasing re-segregation. Housing, immigration, and employment patterns guarantee that urban communities will reflect a higher proportion of Black, Latino, and poor students. Several studies (Orfield & Yun, 1999; Frankenberg & Lee, 2002) indicate that the nation's schools are rapidly re-segregating. We see a nation where public school enrollment reflects the country's growing diversity but Blacks and Latinos are more likely to attend racially isolated schools. This isolation is related in part to the differential birth rates in the White, Black, and Latino communities. But when we look at the actual numbers, we see that fewer Whites live in major urban centers, whereas Blacks and Latinos are concentrated in these areas. Even so, urban schools reflect a hyper-segregation beyond that of their cities' overall population.

Lomotey & Staley (1990) argued that school desegregation programs are said to be successful when White parents are satisfied. Therefore school districts incorporate a variety of perks to attract them. Free or low-cost after-school care, magnet programs and, extracurricular opportunities are paid for with federal “desegregation” monies but Black and Latino children rarely benefit from such programs. When Lomotey and Staley looked more carefully at what was occurring in the schools in the district they studied they learned that African American and Latino students continued to have high school suspension, drop out, and failure rates but school desegregation in the district was considered a “model” program.

In yet another example, an elementary school located in a historically Black community in San Francisco was ordered to desegregate because no schools in the district were permitted to have a population of more than 47% of any one “designated” minority. For years the school was dilapidated and lacked the necessary technology and supplies to support a quality education. Once the district announced that White students would be assigned to the school, repairs began. The building was repainted, the floors were stripped and waxed, broken windows were replaced, a new computer lab was constructed and equipped with state-of-the-art computers, and books and other supplies were plentiful. When I asked the school principal about the school demographics, she responded, “Do you want to know what it is on paper or what it is in reality?” I was surprised to learn that when African American parents saw that the school district was willing to improve the school once White children were coming in and their children were being sent out of the community, a large contingent of them re-enrolled their children in the neighborhood school with the racial/ethnic designation “Native American.” The principal told me, “I have the largest concentration of “Native American” students in the city!” Because the United States allows people to self-designate their racial/ethnic identity, the school officials were in no position to reject the formerly identified African Americans, who reconstituted themselves as Native



**Table 1**  
**Enrollment of the 12 Largest City School Districts by Race and Ethnicity**

City	Enrollment	% White	% Black	% Latino	% Asian
New York	1,091,717	16.1	36.1	37.3	10.0
Los Angeles	735,000	9.6	12.9	71.4	6.0
Chicago	438,589	9.2	50.9	36.4	3.3
Miami	374,806	10.6	30.1	57.2	>2.0
Houston	212,099	9.3	30.5	57.1	3.0
Philadelphia	204,851	16.4	65.3	13.1	4.9
Detroit	187,590	5.2	90.1	2.8	1.0
Dallas	163,327	6.7	32.9	58.9	1.2
San Diego	141,171	26.6	15.6	39.7	17.2
Memphis	118,000	9.0	87.0	0.7	1.4
Milwaukee	105,000	22.2	58.96	12.5	3.6
Baltimore	95,875	10.4	87.7	0.4	0.5

*Note.* These figures come from current school district websites.

Americans. This strategy underscores the ongoing discussion in many communities of color that ask why is it that money and resources follow White middle class children?

### Where We Go From Here

Bell (1983) suggests that despite the inclusion of social scientists and the enthusiasm of community and civil rights activists, the *Brown* decision omitted the perspectives and insights of educators, particularly teachers. Without these perspectives, it was difficult to arrive at a decision that focused on the quality of the education Black children were to receive. The overriding logic was not only one of Black inferiority, but the concomitant one of White superiority and the idea that placing Blacks in the midst of that superiority would be sufficient to create equal education opportunities. There is no provision in *Brown* for equality of outcomes. As long as Blacks and other children of color were given the *opportunity* to attend the same schools that Whites did, the state had met its legal and civic obligations. Communities of color, desperate to receive a better education, were satisfied with the terms of the decision.

So my discussion has offered a rather pessimistic picture of the possibilities of school desegregation via the *Brown* decision. Indeed, some of the most vocal proponents of the decision have expressed similar pessimism. Linda Brown-Thompson, whose father filed the Topeka claim, lamented, “Sometimes I wonder if we really did the children and the nation a favor by taking this case to the Supreme Court. I know it was the right thing for my father and others to do then. But after nearly forty years we find the Court’s ruling unfulfilled” (Patterson, 2001, p. 207). Robert Carter, a former aide of Thurgood Marshall wrote that “for most black children, *Brown*’s constitutional guarantee of equal education opportunity has been an arid abstraction, having no effect whatever on the educational offerings black children are given or the deteriorating schools they attend” (Patterson, 2001, p. 210). And, psychologist Kenneth Clark, whose work on Black self-concept was used as testimony in the case, when asked in 1995,

“What is the best thing for blacks to call themselves?” answered, “White” (Patterson, 2001, p. 210).

The costs that I outlined—job loss and displacement over time, the re-inscription of Black inferiority, the rise of the segregation academies, the missed opportunity for working-class White and Black coalitions to work together for quality education, and the focus on race over quality education—all point to the high price that was paid in the name of getting the Supreme Court and the nation to acknowledge a principle it already understood to be important to democracy. Still, I want to suggest that not all was lost on behalf of the principle. *Brown* created some important space for new kinds of discursive and critical moves that marginalized communities might make. The legal foundation of *Brown* made possible some important legislative, educational, and social changes—for example, the passage of the Civil Rights Act of 1964 and the enforcement of co-education and gender equity at a number of schools through Title IX.

It is important to remember that as far as one might argue the *Brown* decision went in eradicating the notion of “separate but equal”, nevertheless it has minimal power to limit or constrain private behaviors that maintain and support separate institutions.<sup>9</sup> Therefore, the Court’s ruling could not affect the growing number of segregation academies or the “White flight” to suburban communities. Communities of color also have the ability to create separate institutions. Efforts by individuals (e.g., Marva Collins’ Westside Preparatory in Chicago, William Green’s Ivy Leaf School in Philadelphia, Chris Bischof’s Eastside Preparatory in East Palo Alto, CA) and groups (e.g., Council of Independent Black Institutions) have served as small(er)-scale exemplars of academic excellence in segregated African American settings.

Although White southerners organized segregation academies, some 100 historically Black boarding schools existed prior to 1960 (Roach, 2003). These schools, primarily based in the South, came about, in general, because Black parents were searching for alternatives to the substandard, inadequate segregated systems

that Jim Crow laws produced. The promise of *Brown* caused significant enrollment declines and financial hardship to these boarding schools. Today, only four Black boarding schools remain—Laurinburg Institute, North Carolina; Pine Forge Academy, Pennsylvania; Piney Woods, Mississippi; and Redemption Christian Academy, New York. But small boutique programs like Westside Prep, Eastside Prep, and the boarding schools are not realistic options for the millions of students in the public schools. What other options exist?

Critical race theorists might argue that the way to deal with persistent school segregation would be to allow White middle-income schools to remain segregated if they choose but to attach exorbitant monetary fines to such behavior. These monies would be directed into low-income communities' schools to improve the quality of their education. Such a proposal has no chance of being taken seriously in the United States. Therefore we will continue to permit such segregation without acknowledgment or sanction. What then, can be done both to combat the hyper-segregation we find in our urban centers and elite suburbs and to improve the education that all students receive?

*Brown* is more accurately characterized as a *first* step in a long, arduous process to rid the nation of its most pernicious demons—racism and White supremacy. While we celebrate its potential, we must be clear about its limitations. The nation has never fully and honestly dealt with its “race” problem. Our lack of historical understanding seems to obliterate some rather daunting facts. For example, slavery existed legally in North America for almost 250 years. An apartheid-like social segregation was legally sanctioned for another hundred years. The United States as a nation is but 228 years old and existed as a slave nation longer than it has existed as a free one. The norms, customs, mores, and folkways that surround our racial ecology are not easily cast aside. Our attempt to deal with racial problems through our schools is an incomplete strategy.

In its volume on housing and school segregation, the Institute on Race and Poverty (Powell, Kearney, & Kay, 2001) points out that by tackling school segregation and leaving neighborhood segregation intact, the Court's virtually guaranteed the maintenance of a separate and unequal society. A contributor to this volume, Nancy Denton, identifies three persistent myths about residential segregation: (a) segregation has always been with us; (b) residential segregation in cities is natural, and (c) because housing discrimination is illegal it must not be a problem. In confronting the first myth Denton points out that housing patterns at the beginning of the 20th century were nowhere near as segregated as they are now.<sup>10</sup> In addressing the second myth, Denton argues, “persisting residential segregation is not a normal part of the development of cities” (Denton, 2001, p. 94). Rather, a combination of public and private actors—the real estate industry, appraisers, banks, and insurance agencies—played on private prejudices that were ultimately translated into public policy through the Federal Housing Authority.<sup>11</sup> It is striking that the implementation of *Brown* coincided with the building of highways and suburban developments. Denton says that the assumption that the 1968 Fair Housing Act ended housing discrimination is false. The empirical data detail widespread discrimination in the sale and rental of housing to Blacks and Latinos (Fix & Struyk, 1993).

As long as residential segregation remains an issue, school segregation will be a partial and difficult reality. Increasingly, communities endorse “neighborhood schools” and reject busing to achieve desegregation. Currently, Chinese-American parents in San Francisco are fighting to avoid sending their children to schools in African American and Latino neighborhoods (Knight, 2003). Today, the language of “choice” is recruited to help middle-income parents maintain segregated schools. While in principle many states and school districts offer school choice, this choice is possible on a space-available basis. The best schools and school districts rarely have space for any students outside their neighborhood boundaries.<sup>12</sup> The issue of public school charters, private school choice, and vouchers is beyond the scope of this discussion, but my position is they do not represent a practical alternative to the massive numbers of students locked in segregated, substandard urban and rural schools.

If school desegregation has been severely eroded and racial segregation has become more solidified, what hope remains for a diverse, racially integrated educational experience for students—particularly those students who are least well-served by schools? Charles Willie offers a bit of light on the very dark road we have been traveling. Instead of focusing on the school as the sole site of racial integration and democracy, he offers a “theory of complementarity” (Willie, 2000, p. 197) that weds individual needs and desires to group responsibility. This means that while individuals may want to attend particular schools the group must address its responsibility to greater social goals. Willie (2000) believes in a system of “controlled choice” (Willie, 2000, p. 198) that focuses on upgrading the worst schools as well as promoting the best. He points to work in Cambridge, MA, where controlled choice made desegregation workable.

Willie's (2000) work shows some promise, but I am less persuaded that such a plan is feasible outside of college communities that draw high-income, high-achieving students to local public schools. As always, I am drawn to critical race theory analyses and solutions. I would argue for the need to show Whites how they are disadvantaged by racial segregation as a catalyst for change. For example, in a number of large cities such as New York, Chicago, Philadelphia, Baltimore, and San Francisco, there exist high schools like Bronx Science, Whitney Young, Central, Polytechnic, and Lowell where parents seem not at all concerned about the racial make-up or location of the school because they believe that what the school offers overrides their personal prejudices and racial discomforts.

Until K–12 parents have what I would call the “Bear Bryant/Adolph Rupp epiphany”<sup>13</sup> they will continue to seek schooling in racially, economically, and culturally homogeneous communities. Currently, there is no compelling reason for people to leave the safe and comfortable confines of neighborhood schools where they wield influence and can demand privileges. The only way to insure more school desegregation is to disconnect schools altogether from local property taxes and reconstitute students as citizens of states, not merely residents of particular communities. Some of the most egregious school funding disparities occur *within* states (Kozol, 1991). Students in Newark, NJ fare much worse than their Princeton and Toms River counterparts; students in Chicago fair much worse than their New Trier and Palatine counterparts; students in Detroit fair much worse than their



Grosse Pointe counterparts. But all are citizens of their respective states. Here I invoke not states' rights but states' responsibilities to ensure their entire citizenry a quality education. Rather than allow the tremendous variability that emerges when property taxes determine school district resources and expenditures, the state must be proactive in the fight for equity and excellence in public schooling. Such a proposal will not sit well with wealthier citizens who have grown accustomed to wielding broad decision-making power at the local school level. But consider the facts: the state serves as the credentialing agency for teachers and administrators, it typically oversees curriculum standards and requirements, two major sources of school revenue (state and federal) are administered at the state level, the state often determines exit or completion criteria, and nation-wide performance data (e.g. NAEP, ACT, SAT) are reported by states. The state is the logical (and sufficiently distant) entity to equalize education.

Of course I am not naïve enough to believe that the state-as-equalizer solution will be embraced. There are certain to be critics who will rightly point to the extant interstate disparities. Southern states do worse educationally than those in the Northeast and Midwest. Structural issues of differential economic bases and population demographics disadvantage some states, but at least my solution might begin to correct the intrastate disparities. Outside of education, more comprehensive systems—the military, hospitals, and the postal service—have made significant strides in racial desegregation.

I would be less than honest if I said that creating statewide school systems represented the full answer to our school desegregation and equity problems. The truth is that these issues emerge from a much higher level of abstraction. We have the schools we have because of the culture we have. The real answer resides in cultural transformation, a much more difficult and unpopular solution.

The United States originally conceived itself as a nation of pilgrims (small 'p'). The Mayflower became history's largest boat, which inscribed on us an identity as pure, persecuted, and preordained. In time, the pilgrim metaphor failed to capture the American reality, and we substituted the immigrant metaphor: the United States is a nation of immigrants.<sup>14</sup> Europeans were said to have an Ellis Island immigrant experience, Asians were said to have an Angel Island immigrant experience. American Indians were described as the "first immigrants." African Americans were "forced immigrants," and I presume Latinos are "synthetic immigrants"—something new created in the Americas. Once again, the metaphor, though popular, is problematic.

I want to propose a new metaphor that I believe better describes the dynamic and conflicting cultural narrative that is the United States of America. That metaphor is America as jazz (Ladson-Billings, 2003). I choose this art form because of its flexibility and versatility. Jazz does not lend itself easily to definition and prescription and, like jazz, America has conceived itself as an expression of freedom. Such notions of freedom and liberation themselves involve contestation. Carl Engel said that, "good jazz is a composite, the happy union of seemingly incompatible elements . . . It is the upshot of a transformation . . . and culminates in something unique, unmatched in any other part of the world" (Engel, 1922, p. 6).

With jazz as America's metaphor we can begin to see how, through different eras, the nation created and re-created itself—from blues and ragtime to swing and be-bop to cool jazz, avant garde, and free jazz there are tensions and struggles to be a new thing. This new thing pulls on the traditions of the old while pushing toward new forms and expression. If jazz is a metaphor for America, then I would argue that the *Brown v. Board of Education* decision represents an Ornette Coleman-like rupture from the preceding legal decisions. When alto saxophonist Coleman began playing his new music he created what Davis called, "a permanent revolution" in the field (Davis, 1985, p. 1). In 1959 Coleman's quartet appeared at New York's Five Spot jazz club about the same time as the release of Coleman's album, *The Shape of Jazz to Come*. Reportedly, be-bop drummer Max Roach punched Coleman in the mouth on the bandstand and later showed up at his apartment threatening to do him more harm (Ake, 2002). On the other hand, Modern Jazz Quartet leader John Lewis referred to Coleman's sound as "exciting and different . . . the only really new thing in jazz since the innovations in the mid-forties of Dizzy Gillespie, Charlie Parker, and those of Thelonius Monk" (Ake, 2002, p. 63).

And so it must be with *Brown*. The decision provoked strong negative and positive reactions, primarily because it represented a social and cultural break with the past. It was so radical a departure from what had gone before that almost every civil rights challenge that came after it found itself trying to limit and contain its potentially far-reaching and life-changing impact. And, just as Ornette Coleman may have cost jazz some of its mainstream audience, so did *Brown* force moderate Whites who claimed to advocate a gradual approach to desegregation into a defensive posture and alignment with more reactionary and racist communities. But the role of *Brown*, like that of jazz was to serve as a re-articulation of freedom. Duke Ellington said:

Jazz is a good barometer of freedom . . . In its beginnings, the United States of America spawned certain ideals of freedom and independence through which eventually jazz evolved, and the music is so free that many people say it is the only unhampered, unhindered expression of complete freedom yet produced in this country. (quoted in Ward & Burns, 2000, p. vii)

But even as *Brown I* attempted to rend us from a racially troubled past, *Brown II* worked to suture us to that history. By allowing school districts to use delaying tactics and endorsing their legal challenges the federal government effectively backed away from a new vision of the United States. But such a new vision is not easily quashed. I would argue like LeRoi Jones (Amiri Baraka) in 1961 in his comparison of Ornette Coleman to Charlie Parker that *Brown I* was only a "hypothesis" and our "conclusions [will be] quite separate and unique" (cited by Ake, 2002, p. 69).

The real challenge before us is not to enact *Brown* as a solution to segregated schools but rather to use *Brown* as a hypothesis for a new future. Might it be a place to argue that real education is impossible in isolation from diverse and critical perspectives? Might it be a place to begin to examine not just the mis-education of children of color and the poor but also that of White, middle-class children whose limited perspectives severely hamper their ability to function effectively in the global community? *Brown* is neither the panacea that we imagined, nor the problem that we

experience. Rather, it is the hope that landing on a wrong note does not signal the end of the music.

## NOTES

<sup>1</sup> This article was presented as the DeWitt Wallace–Reader’s Digest Lecture of the American Education Research Association Annual Meeting, San Diego, CA April, 2004. I would like to thank Doug McAdam and Fellows at the Center for Advanced Study in the Behavioral Sciences for their thoughtful comments and questions on this paper. I would also like to thank James Anderson from the University of Illinois and Michael Fultz from the University of Wisconsin for help with historical resources.

<sup>2</sup> The original Civil Rights Act of 1875 contained a school desegregation provision that was struck down before its passage. The Supreme Court later declared the act with its prohibition against discrimination in public accommodations unconstitutional.

<sup>3</sup> This case was argued by Thurgood Marshall in South Carolina on May 17, 1950.

<sup>4</sup> This case was filed in Washington, DC, by James Nabrit Jr. on September 11, 1950.

<sup>5</sup> This case was filed in Virginia by the NAACP on May 23, 1951.

<sup>6</sup> See [www.archives.gov/digital\\_classroom/lessons/brown\\_v\\_board\\_documents/images/letter\\_3.gif](http://www.archives.gov/digital_classroom/lessons/brown_v_board_documents/images/letter_3.gif) (retrieved 02/11/04).

<sup>7</sup> I specifically looked at some of the academies in the counties where the plaintiff districts from the school funding adequacy case are located.

<sup>8</sup> See [http://belmont.gov/orgs/alumni/ravenswood/about\\_rhs.htm](http://belmont.gov/orgs/alumni/ravenswood/about_rhs.htm). Retrieved 12/03/03.

<sup>9</sup> The federal government can exercise financial sanctions over schools that receive federal monies and practice racial, gender, ability, national origin, and other forms of discrimination.

<sup>10</sup> Henry Louis Taylor Jr. notes, “The structure of the commercial city kept black ghettos from forming. The population had no choice but to mix. Lack of adequate transportation systems, mixed patterns of land use, and the ubiquity of cheap housing led to the dispersal of both the immigrant and black populations. . . . Throughout the nineteenth century in both the North and South, blacks lived in biracial residential areas; even in the most segregated locations blacks and whites lived adjacent to one another or shared the same dwellings” (Taylor, 1993, p. 159).

<sup>11</sup> The Federal Housing Administration (FHA) fostered loan policies and highway programs that supported racial segregation and encouraged White suburban growth.

<sup>12</sup> During my own school district’s “open enrollment period” I was unable to enroll my child in a school across town because it was “over-enrolled.”

<sup>13</sup> On September 17, 1970, a Black football player, Sam “Bam” Cunningham of the University of Southern California, scored 3 touchdowns against Bear Bryant’s all-White University of Alabama defense. In 1966 the University of Texas–El Paso (formerly Texas Western) started five Black players against Adolph Rupp’s all-White University of Kentucky team in the NCAA championship game. Both USC and UTEP won their respective contests and made clear to big-time college athletics that winning required recruiting players from beyond all-White prep fields.

<sup>14</sup> See popular social studies textbooks at the fifth and eighth grade level.

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